

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE NEW ENGLAND COMPOUNDING
PHARMACY, INC. PRODUCTS
LIABILITY LITIGATION

MDL No. 2419
Dkt. No. 1:13-md-2419 (FDS)

THIS DOCUMENT RELATES TO:

All Actions

**PLAINTIFFS' STEERING COMMITTEE'S NOTICE
OF PROPOSED AMENDMENTS TO PROTECTIVE ORDER**

As discussed during the last status conference, the Plaintiffs' Steering Committee recently discovered what it believes to be an omission in the Amended Stipulated Protective Order of Confidentiality (ECF # 389) ("Protective Order"). The PSC hereby advises the Court of this and suggests minor amendments.

Introduction

When addressing access to documents produced in discovery and designated as "Confidential Discovery Material", the Protective Order states the following, *inter alia*:

1. "Confidential Discovery Material shall not be disclosed except as specifically described below:" Protective Order, p. 7, ¶ 7.
2. With respect to Confidential Discovery Material produced by *plaintiffs*, "any legal counsel working on behalf of any defendant may receive Confidential Discovery Material". *Id.*, ¶ 7.D.iii.
3. With respect to Confidential Discovery Material produced by any *defendant* or any third party to subpoena, "any legal counsel working on behalf of any defendant may receive Confidential Discovery Material. Protective Order, p. 8., ¶ 7.E.iv.

4. Thus, the Protective Order does not currently, explicitly allow counsel working on behalf of a plaintiff to access Confidential Discovery Material, whether produced by a plaintiff, defendant, or third party.

Proposed Amendments to Protective Order

5. The PSC proposes to amend the Protective Order as follows:

a. Replace the existing language of ¶ 7.D.iii with the following (additions underlined):

any legal counsel working on behalf of any plaintiff or defendant
may receive Confidential Discovery Material.

b. Replace the existing language of ¶ 7.E.iv with the following (additions underlined):

any legal counsel working on behalf of any plaintiff or defendant
may receive Confidential Discovery Material.

Date: January 15, 2013

Respectfully submitted:

/s/ Patrick T. Fennell
Patrick T. Fennell
CRANDALL & KATT
366 Elm Avenue, S.W.
Roanoke, VA 24016
Telephone: 540/342-2000
Facsimile: 540/400-0616
pfennell@crandalllaw.com

Plaintiffs' Steering Committee

Thomas M. Sobol
Kristen Johnson Parker
HAGENS BERMAN SOBOL SHAPIRO, LLP
55 Cambridge Parkway, Suite 301
Cambridge, MA 02142
Telephone: 617/482-3700
Facsimile: 617/482-3003
tom@hbsslaw.com

kristenjp@hbsslaw.com

Plaintiffs' Lead Counsel

Elizabeth J. Cabraser
Mark P. Chalos
LIEFF CABRASER, HEIMANN & BERNSTEIN, LLP
275 Battery Street, 29th Floor
San Francisco, CA 94111
Telephone: 415/956-1000
Facsimile: 415/956-1008
ecabraser@lchb.com
mchalos@lchb.com

Federal/State Liaison

Marc E. Lipton
LIPTON LAW
18930 W. 10 Mile Road
Southfield, MI 48075
Telephone: 248/557-1688
Facsimile: 248/557-6344
marc@liptonlaw.com

Kimberly A. Dougherty
JANET, JENNER & SUGGS, LLC
31 St. James Avenue, Suite 365
Boston, MA 02116
Telephone: 617/933-1265
kdougherty@myadvocates.com

Mark Zamora
ZAMORA FIRM
6 Concourse Parkway, 22nd Floor
Atlanta, GA 30328
Telephone: 404/451-7781
Facsimile: 404/506-9223
mark@markzamora.com

J. Gerard Stranch, IV
Benjamin A. Gastel
BRANSTETTER, STRANCH &
JENNINGS, PLLC
227 Second Avenue North
Nashville, TN 37201
Telephone: 615/254-8801

Facsimile: 615/255-5419
gerards@branstetterlaw.com

Plaintiffs' Steering Committee

CERTIFICATE OF SERVICE

I, Patrick T. Fennell, hereby certify that I caused a copy of the foregoing *Plaintiffs' Steering Committee's Notice of Proposed Amendments to Protective Order* to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's system, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

Date: January 15, 2013

/s/Patrick T. Fennell
Patrick T. Fennell (VSB 40393))